



Excise Tax Advisory

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MANUFACTURING CONTAMINANT INCIDENTALLY USED FOR OTHER PURPOSES

Issued July 29, 1966

Does the Business Tax under the "Manufacturing" classification apply where a taxpayer in removing a contaminant, dangerous to his equipment, incidentally produces heat which he used in steam generation for his plant?

The taxpayer, a gas company, was assessed a Business Tax under the "Manufacturing" classification upon catalytic coke, a contaminant, which had to be removed in order to permit the proper performance of a platinum catalyst. The coke was burned off by the injection of oxygen, and in the course of this process, large quantities of heat were generated. The taxpayer had arranged his plant equipment in such a way that some portions of the heat generated by the process were put to use in generating steam required to operate the plant. The auditor's position was that the catalytic coke was a by-product formed during the refining process which was placed to the taxpayer's own industrial use for plant steam generation. The taxpayer contended that the catalytic coke was not a manufactured product and that it was not produced for sale or for commercial or industrial use. In effect, the taxpayer argued that steam generation was only an incident to the "burning out" process which was necessary to keep the equipment in operation and the only practical method of removing these contaminants.

The Tax Commission held that the contaminant, catalytic coke, which accumulated on the catalyst was not a manufactured product but was simply waste which had to be removed. The Commission said that the process involved in removing the waste was made to serve a second purpose but it held that this incidental use of the contaminant was not the production of it for industrial use of steam production by the taxpayer. Therefore, the taxpayer was not held liable for a tax under the Manufacturing classification.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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